IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRTIT PETITION NO.2449 OF 2004

Shri Harun Abbas Jakate ...Petitioner.

V/s

Dastagir @ Yasin Harun Jakate
and anr. ...Respondents.

Mr. A.N. Mulla for the petitioner.

Mr. A.S. Shitole, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 1st March, 2005

P.C.

1. Heard the learned Counsel for the petitioner.

2. Petitioner takes exception to the order passed by the 1st Ad-hoc Addl. Sessions Judge, Islampur whereby, Criminal Revision Application filed by the petitioner for setting aside the order of the Trial Court was dismissed. Petitioner is the husband and an application was filed by his son for maintenance under section 125 of the Criminal Procedure Code. This application was allowed by the Judicial Magistrate, First Class, Islampur and the petitioner was directed to pay the maintenance at the rate of Rs 300/- per month to his son from the date of the application. This order was challenged by the petitioner in the Sessions Court.

3. The learned Counsel appearing on behalf of the petitioner submits that the petitioner is working as an agricultural labourer and the amount of maintenance which is awarded is liable to be quashed. He further submitted that the respondents are not appearing in the proceedings which are taken out by him for custody of the child.

4. The Sessions Court, in my view, has correctly come to the conclusion that so far as the custody proceedings are concerned, it has no relevance to the present proceedings under section 125. There is no reason to interfere with the order passed by the Judicial Magistrate and the Sessions Court. Petitioner has already deposited an amount of Rs 3000/- in this Court. Office to remit this amount to the Court of Judicial Magistrate, First Class, Islampur in Misc. Application No.373 of 1993. Respondent No.1 shall be permitted to withdraw this amount. Criminal Writ Petition is dismissed.

V.M. KANADE, J.